



TRANSMITTAL LETTER

The University of North Carolina

Office of the President

Number: 10

Date: February 22, 2002

Subject:

Guidelines on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act. Guideline #300.2.5[G]

Regulations on the Application of Guidelines on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act (Guideline #300.2.5[G]). Regulation #300.2.5.1[R]

This transmittal letter distributes the above Guideline #300.2.5[G], which was approved by the President on February 18, 2002, as well as Regulation #300.2.5.1[R], which was amended by the president on February 18, 2002.

These two documents replace Regulation #300.2.5[R], which was entitled Regulations on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act. Please remove the old version of this document from your Policy Manual and replace it with the two attached updated documents.

Please contact Dr. Cynthia Bonner, Associate Vice President for Faculty and Staff Resources, at 919-962-4555, if you have any questions with regard to these changes.

Attachments (2)

Adopted 02/18/02

**Guidelines on Interpreting General Statute § 126-5(c1)(8): Instructional and Research Staff
Exempt from the State Personnel Act**

North Carolina General Statute § 126-5(c1) [State Personnel Act] provides that the following employees are exempt from the provisions of this statute:

- (8) Instructional and research staff, physicians, and dentists of the University of North Carolina.

The Office of State Personnel and the University of North Carolina have agreed that the following shall govern the interpretation and application of the terms “instructional” and “research” as used in N.C.G.S. § 126-5(c1)(8).

1. Instructional¹

Positions qualifying for designation as “Instructional” are characterized by the following:

- a. The duties must be associated with the regular academic and educational experiences provided by the university, or be uniquely supportive of those academic and educational experiences, and must involve significant and independent interaction with participants in the University’s instructional and educational program.
- b. The position must require that a substantial proportion of the work commitment is devoted to instructional activities or to the direction of educational/academic supportive activities.
- c. The position requires the exercise of discretion in determining the nature and content of the instructional or educational activities assigned and evaluating their effectiveness.
- d. The position requires possession of post baccalaureate credentials or equivalent independent experience in comparable instructional or educational activities.

The following roles represent these characteristics:

Instructing

Positions whose primary purpose is to determine course content, teach and evaluate enrolled students in courses for academic.

¹ Positions directing staff that qualify as “Instructional” also qualify as “Instructional”.

Academic Advising	Positions whose primary purpose is to advise students on academic matters such as selection of a major area of study, course selection, and academic performance.
Academic Preparation and Enhancement	Positions whose primary purpose is to improve academic preparation through such means as tutoring and supplemental instruction or to direct programs designed to enhance the educational experience of enrolled students or of targeted secondary school students to help prepare them for post-secondary education.
Co-Operative Education	Positions whose primary purpose is to develop co-operative education experiences for students with employers, monitoring progress, and evaluating student performance with direct impact on grade assignment.
Laboratory Management	Positions whose primary purpose is to manage practical experience/research laboratories and that participate in selection of experiments, protocols, and procedures which best support the instructional or research goals and in evaluating progress towards those goals.
Instructional Consulting	Positions whose primary purpose is to assist, advise, and critique faculty and other instructional staff on instructional matters such as course content, curriculum structure, and instructional technique.
Instructional Technology	Positions whose primary purpose is to utilize a variety of telecommunications and/or advanced media-based technology to plan, design, and administer distance education curricula and/or programs in support of instructional and research activities that are directly related to the institution's academic mission.
Continuing Education	Positions whose primary purpose is to design and deliver courses, seminars, etc., extending the benefit of the institution's regular academic and research activities to participants.

Coaching	Positions whose primary purpose is to coach student athletes for teams sponsored by the institution.
Academic Standards	Positions whose primary purpose is to develop and/or administer academic standards and curricula for degree granting programs.
Student Support Services	Positions whose primary purpose is to develop, direct and administer services for students and/or faculty that have a direct impact on the quality of students' educational experiences and are directly linked to the institution's academic programs. These positions include professional staff that design and deliver programs and seminars that involve direct interaction with students and enhance the overall academic and learning experience outside of a formal classroom setting.
Professional Librarians	Positions whose primary purpose is to support instructional and research activities by advising students and faculty on the selection and effective use of library resource materials and by working with faculty on instructional and research matters such as collection development.
Counselors	Positions requiring credentialed professionals whose primary purpose is to: provide clinical and developmental counseling or psychological services to students to enhance their psychological growth, emotional well-being, and learning potential; and, advise academic and academic support program directors of special needs, trends, and suggested program revisions based on the interaction with the student population.

2. Research²

Positions qualifying for designation as "Research" are characterized by the following:

- a. The position must require substantial independence in creative or research efforts and in the interpretation and dissemination of research results.

² Positions directing staff that qualify as "Research" also qualify as "Research".

- b. The duties must be integral with the University's instructional or research activities and represent an extension of the regular academic and education experience provided by the University.
- c. The position must require that a substantial portion of the total work commitment is devoted to those research activities.
- d. The position requires possession of post-baccalaureate credentials or a comparable record of independent research productivity.

The following represent these characteristics:

Academic Research

Positions whose primary purpose is to serve as principal investigators or research associates for primary or secondary research projects that may advance or enhance a field of academic learning. These positions function with substantial independence and expertise in research design, implementation of research procedures, data analysis, and interpretation of results.

Research Administration

Positions whose primary purpose is to direct staff serving as principal investigators assigned to research projects; or positions that serve as directors of sponsored research including determining if project proposals are consistent with the institution's academic and research policy, advising staff on the development of project proposals, and negotiating with sponsoring agencies particularly as it relates to terms and conditions that affect academic freedom and ownership of the product.

Institutional Research

Positions whose primary purpose is to direct staff in the collection of data and information concerning students, faculty, facilities and related items used for reporting and directly supports the institution's planning and assessment processes.

Academic Computing

Positions whose primary purpose is to direct staff in providing electronic data processing services that directly support the institution's academic and research missions.

Community Service

Positions whose primary purpose is to direct staff in the development and administration of programs which focus the academic resources and research products of the institution on the resolution of community and regional issues and foster the incorporation of these issues in the institution's academic research programs.

[This is a rewrite of Administrative Memorandum #364³.]

³ The section of Administrative Memorandum #364 related to the application of guidelines on interpreting North Carolina General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act has been rewritten as Regulation #300.2.5.1[R].

Adopted 10/28/96
Amended 02/18/02

**Regulations on the Application of Guidelines on Interpreting General Statute § 126-5(c1)(8):
Instructional and Research Staff Exempt from the State Personnel Act. (Guideline #300.2.5[G])**

North Carolina General Statute § 126-5(c1) [State Personnel Act] provides that the following employees are exempt from the provisions of this statute:

- (8) Instructional and research staff, physicians, and dentists of the University of North Carolina.

The North Carolina Office of State Personnel and the University of North Carolina have agreed to guidelines, (#300.2.5[G]) that govern the interpretation and application of the terms "instructional" and "research" as used in N.C.G.S. § 126-5(c1)(8).

Application of the guidelines on interpreting N.C.G.S. § 126-5(c1)(8) may require a prospective change in the status of a position from EPA (exempt from the State Personnel Act) to SPA (subject to the State Personnel Act) or vice versa. The incumbent of a position that is subject to a change in status shall have the option of requiring that the change not be made for the duration of his or her continued occupancy of the position. The incumbent shall be given no less than 15 business days to exercise the option to retain SPA/EPA status after receiving written notice from the employer that the position is subject to a change in status. Exercise of the option must be confirmed in writing cosigned by the employee and the employer, on a form that shall include a certification that the affected employee either (1) asked for and received or (2) was apprised of but declined the opportunity to receive from a staff representative designated by the employer a written summary of conclusions concerning differences, if any, between SPA and EPA status of the position with respect to:

- a. methods of calculating compensation;
- b. both statutory-mandated and other employer-provided benefits; and
- c. policies and procedures governing non-disciplinary termination of employment; discharge, suspension, demotion or other disciplinary action; and the consideration/resolution of grievances, all as of the effective date of the signed choice of option.

(A sample form is attached as Appendix A)

Once such an option has been chosen, it may not be rescinded thereafter except by mutual written agreement of the employee and the employer. An incumbent who has chosen the option to maintain the status quo thereafter may not be removed involuntarily from the position for the purpose of effecting a change in the status of the position. However, when the incumbent who chose that option thereafter vacates the position through resignation, retirement, or discharge for cause, the change in status required by application of the regulations shall be effective immediately.

[This is a rewrite of Administrative Memorandum #364¹.]

¹ The section of Administrative Memorandum #364 related to the interpretation of General Statute § 126-5(c1)(8): Instructional and Research Staff Exempt from the State Personnel Act has been rewritten as Guideline #300.2.5[G].
An Equal Opportunity/Affirmative Action Employer

APPENDIX A

Implementation of Employee's Option to Maintain Current Status

On ____ [date] ____, I received notice that the status of the employment position I now occupy, ____ [specify] ____, is subject to change from ____ [SPA/EPA] to ____ [EPA/SPA]. I understand that I have the option of requiring that the present ____ [EPA or SPA] status of the position not be changed during my continued occupancy of the position. I understand that if I decide to exercise the option of preserving the present status of the position, that decision is binding on me for as long as I occupy the position, unless my employer and I subsequently agree otherwise in writing.

I have ____ (1) asked for and received or ____ (2) declined the opportunity to receive from a staff representative designated by my employer a written summary of any differences in terms and conditions of employment applicable to the position, depending upon whether its status is SPA or EPA. [If option (1) is checked, the written summary is set forth in writing in an attachment to this form and should be reviewed before the employee at the appropriate space indicated; if option (2) is checked, the employee may proceed to the appropriate signature line. In either case, the instrument must be co-signed by the employee's immediate supervisor or by the next higher level administrative officer.]

The attachment indicates differences, if any, between EPA and SPA status with respect to:

- a. methods of calculating compensation;
- b. leave entitlement;
- c. entitlement to participate in statutory-mandated or other employer-sponsored payroll-deducted benefits; and
- d. policies and procedures governing nondisciplinary termination of employment; discharge, suspension, demotion or other disciplinary action; and the consideration and disposition of grievances.

____ I do wish to exercise my option of retaining the ____ [SPA/EPA] status of the employment position I now occupy.

____ I do not wish to exercise my option of retaining the ____ [SPA/EPA] status of the employment position I now occupy.

Employee signature

Date

Witnessed by Employer

Date